

APPENDIX A: Final Regulatory Flexibility Analysis

136. As required by the Regulatory Flexibility Act (RFA), 5 USC 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice* in this docket, CC Docket No. 99-216.²⁹¹ The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA.²⁹² This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, 5 USC § 604.

A. Need for, and Objectives of, the Proposed Rules.

137. This rulemaking proceeding was initiated in order to streamline and privatize Part 68 of the Commission's rules. Section 151 of the Communications Act and the statutory authority relied upon by the Commission to implement Part 68 in the first instance²⁹³ do not *require* that the Commission establish technical criteria for the attachment of terminal equipment to the PSTN or to register directly every type of terminal equipment before it can be interconnected with the public switched telephone network. Rather, this statutory authority *permits* the Commission to adopt reasonable regulations to ensure that terminal equipment does not cause harm to the PSTN, consistent with the public interest. Furthermore, under the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission to examine its rules applying to the operation or activities of any provider of telecommunications service every two years and determine whether "any such regulation is no longer in the public interest as the result of meaningful economic competition between providers of such service."²⁹⁴ Congress directed the Commission to repeal or modify those regulations it determines, based upon the statutory standard, to be no longer necessary in the public interest.²⁹⁵ The record overwhelmingly demonstrates that, based upon the maturity and competitiveness of the terminal equipment manufacturing market and the telecommunications services industry, it is in the public interest for private industry to establish technical criteria for the connection of technical equipment to the PSTN and to self-regulate conformance of terminal equipment to the Administrative Council's technical criteria.

138. The Commission finds that industry rather than Commission development of technical criteria will decrease development time and allow suppliers to bring innovative consumer products, especially for the provision of advanced services, to the market on an expedited basis. This expedited process should benefit consumers by lowering the costs of terminal equipment and by ensuring that new technologies are widely available. The process of developing and maintaining technical criteria will be accomplished as follows. Any standards development organization (SDO), accredited under the ANSI Organization Method or the Standards Committee Method, can establish technical criteria for terminal equipment pursuant to ANSI consensus decision-making procedures, and submit such criteria to the Administrative Council for Terminal Attachments established by industry. The Administrative Council would review the criteria only for supporting documentation from the SDO certifying that the submitted technical criteria are not duplicative or

²⁹¹ See *generally Notice*, 15 FCC Rcd at Appendix B.

²⁹² See *Notice*, 15 FCC Rcd at 10561, para. 106.

²⁹³ 47 U.S.C. § 151. The provisions of the Communications Act of 1934 upon which the Commission relied to initiate the Part 68 program included Sections 4(i), 4(j), 201-205, 215, 218, 313, 314, 403, 404 and 602. See *Part 68 First Report and Order*, 56 FCC 2d at 613.

²⁹⁴ 47 U.S.C. § 161.

²⁹⁵ 47 U.S.C. § 161.

in conflict with any other existing technical criteria required for terminal equipment. The Administrative Council must publish the submitted criteria as technical criteria for terminal equipment. Upon publication, the Commission would consider the technical criteria to be presumptively valid such that they comply with the rules for proscribing harm to the network, subject to *de novo* review on appeal.

139. Privatizing the terminal equipment registration process will reduce unnecessary costs and delays currently imposed upon suppliers and the Commission without measurably increasing the possibility of harm to the network.²⁹⁶ The Commission finds that registration of terminal equipment shall continue, but that suppliers may show compliance with the technical criteria through one of two means. First, suppliers may seek approval of terminal equipment's compliance with the relevant technical criteria from private Telecommunications Certification Bodies (TCBs). In the alternative, suppliers may show compliance through the Supplier's Declaration of Conformity (SDoC) method of equipment approval.

140. Upon weighing the substantial benefits of accelerating the terminal equipment approval process against the unlikely possibility of any cost increases associated with harm to the PSTN that may result from a decreased presence of the Commission in the approval process, it is no longer in the public interest for the Commission to continue its Part 68 registration functions. Accordingly, the Commission shall cease accepting applications for Part 68 registration 180 days after publication of this Order in the Federal Register and the Administrative Council shall begin to assume all the responsibilities assigned herein.

B. Legal Basis

141. In this Report and Order, we conclude that the Commission has the necessary statutory authority to adjust the Part 68 program as adopted herein. For example, the amendments are entirely in furtherance of our statutory mission "to make available . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communications service with adequate facilities . . ."²⁹⁷ Further, the amendments are justified, at least in part, on the basis of the same statutory authority which was relied upon in 1975 when the Part 68 program was originally implemented, *i.e.*, Sections 4(i), 4(j), 201-205, 215, 218, 313, 314, 403, 404 and 602.²⁹⁸ Finally, as noted previously, the amendments will further the competitive goals of the recently enacted Telecommunications Act of 1996.²⁹⁹

142. The Commission's action herein is further supported by the past regulatory framework for Part 68. The Part 68 *First Report and Order* stressed that the Commission's guiding objective for competitive CPE registration is that it would remain "simple and easy to administer as is reasonably possible with a minimum of government intervention."³⁰⁰ The Commission's goals were to produce an absolute minimum of expense to both the government and private industry, to the benefit of the ultimate consumer, while at the same time protecting the PSTN from harms that could be caused by the

²⁹⁶ See *supra* paras. 90-93, 98-106.

²⁹⁷ 47 U.S.C. §§ 201-205; see also *North Carolina Utilities Commission v. FCC*, 537 F.2d 787, 793-94 (4th Cir. 1976).

²⁹⁸ See *First Report and Order*, 56 FCC 2d at 613.

²⁹⁹ 47 U.S.C. §161.

³⁰⁰ *First Report and Order*, 56 FCC 2d at 599.

connection of faulty terminal equipment.³⁰¹ Accordingly, we conclude that, in view of the changes in the industry and the market for CPE over the past twenty-five years, the key objectives that led to the original adoption of the Part 68 program can better be served through a different mix of government and private industry involvement.

C. Summary of Significant Issues Raised by Public Comments in Response to the IRFA.

143. TIA notes that the proposal to have a single source for identifying technical criteria (Option A in the *Notice*) is likely to have a positive impact on the ability of small entities to participate in the development of technical criteria. A comparison of the attendance records of TIA's TR-41.9, Technical Regulatory Considerations Engineering Committee and that of this open docket shows a much more diverse community of interest in the TIA committee than those providing comments in this docket.³⁰² TIA further notes that ANSI requires notice to interested parties of standards actions, thus allowing more active participation in development or revision of standards. It states that most standards groups are using electronic working methods that make the process more accessible to small and medium sized organizations.³⁰³

144. Phonex urges the Commission carefully evaluate the effect on small business entities of any regulatory change before further streamlining Part 68.³⁰⁴ Phonex recommends that the Commission to wait 12 to 18 months for the TCB program to stabilize and to provide benefits before introducing any other change that could adversely affect small businesses, including suppliers.³⁰⁵ Redcom Labs contends that language needs to be added in any rulemaking by the Commission that reflects the language in the RFA 5 § USC 603(c), because the standards developed will have the force of law.³⁰⁶ Without language mirroring the RFA, Redcom Labs argues, it will be far too easy to ignore the needs of small companies or provide special consideration to small companies.³⁰⁷

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.

145. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.³⁰⁸ The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act.³⁰⁹ A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation;

³⁰¹ *Id.*

³⁰² TIA Comments at 10-11.

³⁰³ TIA Comments at 11.

³⁰⁴ Phonex Comments at 5.

³⁰⁵ Phonex Comments at 5.

³⁰⁶ Reccom Labs Comments.

³⁰⁷ Reccom Labs Comments.

³⁰⁸ 5 U.S.C. § 603(b)(3).

³⁰⁹ 5 U.S.C. § 601(3).

and (3) satisfies any additional criteria established by the SBA.³¹⁰ RFA analyses and certifications need only address the impact of rules on small entities directly regulated by those rules, *Mid-Tex Electric Cooperative, Inc. v. FERC*, 773 F.2d 327, 342-43 (D.C. Cir. 1985). The Commission's equipment authorization rules directly regulate only suppliers of equipment, which must satisfy the Commission's product approval requirements. Small test laboratories are not directly regulated by the proposed Commission rules. Thus, to the extent that any testing laboratories would be affected by these proposed rules, such entities are not addressed in this analysis.

146. The Commission has not developed a definition of small manufacturers of telephone terminal equipment. The closest applicable definitions under SBA rules is for manufacturers of telephone and telegraph apparatus (SIC 3661), which defines a small manufacturer as one having 1,000 or fewer employees.³¹¹ According to 1992 Census Bureau data, there were 479 such manufacturers, and of those, 436 had 999 or fewer employees, and seven had between 1,000 and 1,499 employees.³¹² We estimate that there are fewer than 443 small manufacturers of terminal equipment that may be affected by the proposed rules.

E. Description of Projected Reporting, Recordkeeping, and other Compliance Requirements.

147. Reporting and Recordkeeping: This Report and Order involves several reporting requirements. No later than 180 days after the date of publication of this Order in the Federal Register, the Administrative Council shall publish the Part 68 rules we transfer to it by operation of the rules we adopt herein. No later than 180 days after publication of this Order in the Federal Register, the Administrative Council shall report to the Commission its progress in resolving outstanding numbering and labeling requirements. The Administrative council must also establish and maintain a database of all approved or supplier-declared terminal equipment. Furthermore, suppliers are required to maintain a copy of their declaration of conformity, test labs results, and an explanation of the testing procedures utilized for 10 years after the equipment is no longer available on the market.

148. Other Compliance Requirements: No later than 30 days after publication of this Order in the Federal Register, TIA and ATIS, as the sponsoring organization for the Administrative Council for Terminal Attachment, shall notify the industry of their intent to establish and populate a Administrative Council. The Administrative Council shall be populated within 60 days after notice to the industry. No later than 60 days after the first official meeting of the Administrative Council, the Administrative Council shall establish, publish, and submit to the Commission a "charter" detailing its functions, operations, and standards for providing balanced membership. No later than 180 days after publication of this Order in the Federal Register, the Commission shall cease accepting applications for registration of Part 68 equipment and transfer responsibility for establishing and maintaining the database of approved equipment to the Administrative Council. No later than 30 days after the Administrative Council is populated, the Administrative Council shall convene its first official meeting.

F. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.

149. The RFA requires an agency to describe any significant alternatives that it has considered in

³¹⁰ 5 U.S.C. § 632.

³¹¹ 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 3661.

³¹² 1992 Economic Census, Industry and Employment Size of Firm, Table 1D (prepared by U.S. Census Bureau under contract to the U.S. Small Business Administration).

reaching its proposed approach, which may include the following four alternatives:

- (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
- (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities;
- (3) the use of performance, rather than design, standards; and
- (4) an exemption from coverage of the rule, or any part thereof, for small entities.

150. In the Notice, the Commission sought comment on several processes for establishing technical criteria and how suppliers may demonstrate conformity with those criteria.³¹³ The Commission also sought comment on how those processes would impact small manufacturers.³¹⁴ The Commission based its conclusion in the Order on the comments it received in this proceeding, including those submitted by smaller manufacturers.

151. In the Order, the Commission concluded that in establishing technical criteria, the Administrative Council must use procedures that will encourage all interested parties, including small manufacturers, to be involved in the standards setting process. With this decision, we considered the comments of TIA and of Redcom Laboratories that small businesses should be included in the process of developing technical criteria. The Commission acknowledged the needs of small businesses by choosing the option for development of technical criteria that the record showed would permit more small business input. In addition, the Commission entrusted affordable participation in the technical criteria development process by small businesses to the Administrative Council, while maintaining a right of Commission review of the industry processes should that be necessary.

152. Similarly, the Commission considered the needs of small suppliers by establishing a two-prong process for suppliers to demonstrate conformity with those criteria. Suppliers may choose to either seek approval of their equipment from TCBs or to provide a formal SDoC of their own equipment to the Administrative Council and to consumers. Large and small manufacturers alike agree that TCBs are an important part of the equipment approval process,³¹⁵ because TCBs provide an internationally recognized means of assessing equipment conformity. Lucent and Phonex assert that some manufacturers may prefer TCB certification because these manufacturers may be unable to conduct thoroughly in-house testing.³¹⁶ TCBs will provide manufacturers an equipment approval alternative that has proven to be effective and is widely recognized. Phonex, a small manufacturer, expresses concern that it will face discrimination on its self-declaration of compliance in some countries because small manufacturers lack bargaining power of large suppliers through domestic and foreign distributors.³¹⁷ We recognize that larger manufacturers may hold an

³¹³ Notice, 15 FCC Rcd at 10534, 10548, paras. 23, 64.

³¹⁴ Notice, 15 FCC Rcd at 10561, para. 106.

³¹⁵ Lucent Comments at 6; Phonex Comments at 5. (We note that Phonex is opposed to the Commission's adopting any equipment approval process other than TCBs).

³¹⁶ Lucent at 6; Phonex at 4-5.

³¹⁷ Phonex Comments at 5. Overseas, American products with Part 68 grants are often accepted with no further proof of conformity assessment compliance. Phonex has encountered situations where other countries ask for European approval numbers, which Phonex can no longer provide them because of the implementation of the RTTE Directive in (continued....)

advantage over small manufacturers due to brand recognition. Because TCBs will continue to approve terminal equipment, we believe smaller manufacturers will have a competitively viable option of seeking terminal equipment approval, and thus will not be harmed by the Commission's adoption of an alternative approval method, SDoC. Thus, when an equipment manufacturer chooses to seek certification from a TCB, TCBs will effectively assume the Commission's current responsibilities of terminal equipment approval in an efficient and nondiscriminatory manner. In the alternative, the Commission considered requiring all suppliers to seek TCB certification or approval from an accredited lab. These alternatives would have imposed unnecessary requirements, delays and costs on consumers and all suppliers, including those qualifying as small entities. Thus, adopting these alternative procedures would be contrary to the public interest, and therefore, Congress' mandate that the Commission eliminate unnecessary regulation to streamline its own procedures where the public interest dictates.

G. Report to Congress

153. The Commission will send a copy of this *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 § USC 801 (a)(1)(A). In addition, the Commission will send a copy of this *Report and Order*, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order*, and FRFA (or summaries thereof) will also be published in the Federal Register. *See* 5 § USC 604(b).

(Continued from previous page) _____

Europe requiring suppliers self-declaration. However, when applicable, these countries would accept Part 68 approval as proof of compliance with their import requirements. Phonex Comments at 4-5.

APPENDIX B: FINAL RULES

Part 68 of Title 47 of the Code of Federal Regulations is amended as follows:

- 1) The authority citation for Part 68 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 155 and 303.

- 2) The table of contents of Part 68 is amended as follows:

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK**Subpart A—General**

Sec.

68.1 Purpose.

68.2 Scope.

68.3 Definitions.

68.4 Hearing aid-compatible telephones.

68.5 Waivers.

68.6 Telephones with volume control.

68.7 Technical criteria for terminal equipment.

Subpart B—Conditions on Use of Terminal Equipment

68.100 General

68.102 Terminal equipment approval requirement.

68.105 Minimum point of entry (MPOE) and demarcation point.

68.106 Notification to provider of wireline telecommunications.

68.108 Incidence of harm.

68.110 Compatibility of the public switched telephone network and terminal equipment.

68.112 Hearing aid-compatibility.

68.160 Designation of Telecommunications Certification Bodies (TCBs)

68.162 Requirements for Telecommunications Certification Bodies

Subpart C—Terminal Equipment Approval Procedures

68.201 Connection to the public switched telephone network.

68.211 Terminal equipment approval revocation procedures.

68.213 Installation of other than “fully protected” non-system simple customer premises wiring.

68.215 Installation of other than “fully protected” system premises wiring that serves more than four subscriber access lines.

68.218 Responsibility of the party acquiring equipment authorization.

68.224 Notice of non-hearing aid compatibility.

Subpart D—Conditions for Terminal Equipment Approval

68.300 Approval of terminal equipment for connection to the public switched telephone network.

- 68.316 Hearing aid compatibility: technical requirements.
- 68.317 Hearing aid compatibility volume control: technical standards.
- 68.318 Additional limitations.
- 68.320 Supplier's Declaration of Conformity.
- 68.321 Location of responsible party.
- 68.322 Changes in name, address, ownership or control of responsible party.
- 68.324 Supplier's Declaration of Conformity Requirements.
- 68.326 Retention of records.
- 68.346 Description of testing facilities.
- 68.348 Changes in equipment and circuitry subject to a Supplier's Declaration of Conformity.
- 68.350 Revocation of Supplier's Declaration of Conformity.
- 68.354 Numbering and labeling requirements for terminal equipment.

Subpart E—Complaint Procedures

- 68.400 Content.
- 68.402 Amended complaints.
- 68.404 Number of copies.
- 68.406 Service.
- 68.408 Answers to complaints and amended complaints.
- 68.410 Replies to answers or amended answers.
- 68.412 Defective pleadings.
- 68.414 Hearing aid-compatibility: Enforcement.
- 68.415 Hearing aid-compatibility and volume control informal complaints.
- 68.417 Informal complaints; form and content.
- 68.418 Procedure; designation of agents for service.
- 68.419 Answers to informal complaints.
- 68.420 Review and disposition of informal complaints.
- 68.423 Actions by the Commission on its own motion.

Subpart F—reserved

Subpart G—Administrative Council for Terminal Attachments

- 68.602 Sponsor of the Administrative Council for Terminal Attachments.
- 68.604 Requirements for submitting technical criteria.
- 68.608 Publication of technical criteria.
- 68.610 Database of terminal equipment.
- 68.612 Labels on terminal equipment.
- 68.614 Oppositions and appeals.

- 3) Section 68.2 is amended to amend paragraph (a), and to delete all other paragraphs except paragraph (i) and the last paragraph of subparagraph (l)(2), which shall be renumbered respectively as subparagraphs (b) and (c), and to amend renumbered paragraph (b) as follows:

§68.2 Scope

(a) Except as provided in paragraphs (b) and (c) of this section, the rules and regulations apply to direct connection of all terminal equipment to the public switched telephone network for use in conjunction with all services other than party line services.

(b) * * * * *

(2) The equipment or device to be connected either complies with the technical criteria pertaining thereto or will not cause harm to the nationwide telephone network or to employees of any provider of wireline telecommunications; and

(3) The installation is performed by well-trained, qualified employees under the responsible supervision and control of a person who is a licensed professional engineer in the jurisdiction in which the installation is performed.

* * * * *

4) Section 68.3 is amended to delete all terms and their definitions except: "demarcation point," "essential telephones," "harm," "hearing aid compatible," "Private Radio Services," "Public Mobile Services," and "secure telephones;" the definitions for the terms "demarcation point" and "harm" are amended as follows, and this section is further amended to add the following terms with their definitions:

§68.3 Definitions

* * * * *

Demarcation point (also point of interconnection): As used in this part, the point of demarcation and/or interconnection between the communications facilities of a provider of wireline telecommunications, and terminal equipment, protective apparatus or wiring at a subscriber's premises.

Harm: Electrical hazards to the personnel of providers of wireline telecommunications, damage to the equipment of providers of wireline telecommunications, malfunction of the billing equipment of providers of wireline telecommunications, and degradation of service to persons other than the user of the subject terminal equipment, his calling or called party.

Inside wiring or premises wiring: Customer-owned or controlled wire on the subscriber's side of the demarcation point.

Premises: As used herein, generally means a dwelling unit, other building or a legal unit of real property such as a lot on which a dwelling unit is located, as determined by the provider of telecommunications service's reasonable and nondiscriminatory standard operating practices.

Responsible Party: The party or parties responsible for the compliance of terminal equipment or protective circuitry intended for connection directly to the public switched telephone network with the applicable rules and regulations in this part and with the technical criteria published by the Administrative Council for Terminal Attachments. If a Telecommunications Certification Body certifies the terminal equipment, the responsible party is the holder of the certificate for that equipment. If the terminal equipment is the subject of a Supplier's Declaration of Conformity, the responsible party shall be: (1) the manufacturer of the terminal equipment, or (2) the manufacturer of protective circuitry that is marketed for use with terminal equipment that is not to be connected directly to the network, or (3) if the equipment is imported, the importer, or (4) if the terminal equipment is assembled from individual component parts, the assembler. If the equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the U.S., or the importer, if the equipment is imported subsequent to the modifications, becomes the new responsible party. Retailers or original equipment manufacturers may enter into an agreement with the assembler or importer to assume the responsibilities to ensure compliance of the terminal equipment and to become the responsible party.

Terminal Equipment: As used in this part, communications equipment located on customer premises at the end of a communications link, used to permit the stations involved to accomplish the provision of telecommunications or information services.

5) A new Section 68.7 is added as follows:

§68.7 Technical criteria for terminal equipment.

(a) Terminal equipment shall not cause harm, as defined in §68.3, to the public switched telephone network.

(b) Technical criteria published by the Administrative Council for Terminal Attachments are the presumptively valid technical criteria for the protection of the public switched telephone network from harms caused by the connection of terminal equipment, subject to the appeal procedures in section 68.614 of this part.

6) Section 68.100 is amended as follows:

§68.100 General.

In accordance with the rules and regulations in this part, terminal equipment may be directly connected to the public switched telephone network, including private line services provided over wireline facilities that are owned by providers of wireline telecommunications.

7) Section 68.102 is amended as follows:

§68.102 Terminal equipment approval requirement.

Terminal equipment must be approved in accordance with the rules and regulations in subpart C of this part, or connected through protective circuitry that is approved in accordance with the rules and regulations in subpart C.

8) Section 68.104 is deleted and the number reserved.

9) A new Section 68.105 is added as follows:

§68.105 Minimum point of entry (MPOE) and demarcation point.

(a) *Facilities at the demarcation point.* Carrier-installed facilities at, or constituting, the demarcation point shall consist of wire or a jack conforming to the technical criteria published by the Administrative Council for Terminal Attachments.

(b) *Minimum point of entry.* The "minimum point of entry" (MPOE) as used herein shall be either the closest practicable point to where the wiring crosses a property line or the closest practicable point to where the wiring enters a multiunit building or buildings. The reasonable and nondiscriminatory standard operating practices of the provider of wireline telecommunications services shall determine which shall apply. The provider of wireline telecommunications services is not precluded from establishing reasonable classifications of multiunit premises for purposes of determining which shall apply. Multiunit premises include, but are not limited to, residential, commercial, shopping center and campus situations.

(c) *Single unit installations.* For single unit installations existing as of August 13, 1990, and installations installed after that date the demarcation point shall be a point within 30 cm (12 in) of the protector or, where there is no protector, within 30 cm (12 in) of where the telephone wire enters the customer's premises, or as close thereto as practicable.

(d) *Multiunit installations.*

(1) In multiunit premises existing as of August 13, 1990, the demarcation point shall be determined in accordance with the local carrier's reasonable and non-discriminatory standard operating practices. Provided, however, that where there are multiple demarcation points within the multiunit premises, a demarcation point for a customer shall not be further inside the

customer's premises than a point twelve inches from where the wiring enters the customer's premises, or as close thereto as practicable.

(2) In multiunit premises in which wiring is installed, including major additions or rearrangements of wiring existing prior to that date, the provider of wireline telecommunications may place the demarcation point at the minimum point of entry (MPOE). If the provider of wireline telecommunications services does not elect to establish a practice of placing the demarcation point at the minimum point of entry, the multiunit premises owner shall determine the location of the demarcation point or points. The multiunit premises owner shall determine whether there shall be a single demarcation point location for all customers or separate such locations for each customer. Provided, however, that where there are multiple demarcation points within the multiunit premises, a demarcation point for a customer shall not be further inside the customer's premises than a point 30 cm (12 in) from where the wiring enters the customer's premises, or as close thereto as practicable. At the time of installation, the provider of wireline telecommunications services shall fully inform the premises owner of its options and rights regarding the placement of the demarcation point or points and shall not attempt to unduly influence that decision for the purpose of obstructing competitive entry.

(3) In any multiunit premises where the demarcation point is not already at the MPOE, the provider of wireline telecommunications services comply with a request from the premises owner to relocate the demarcation point to the MPOE. The provider of wireline telecommunications services must negotiate terms in good faith and complete the relocation within forty-five days from said request. Premises owners may file complaints with the Commission for resolution of allegations of bad faith bargaining by provider of wireline telecommunications services. *See* 47 U.S.C. Section 208; 47 C.F.R. Sections 1.720-1.736 (1999).

(4) The provider of wireline telecommunications services shall make available information on the location of the demarcation point within ten business days of a request from the premises owner. If the provider of wireline telecommunications services does not provide the information within that time, the premises owner may presume the demarcation point to be at the MPOE. Notwithstanding the provisions of section 68.110(c) of this part, provider of wireline telecommunications services must make this information freely available to the requesting premises owner.

(5) In multiunit premises with more than one customer, the premises owner may adopt a policy restricting a customer's access to wiring on the premises to only that wiring located in the customer's individual unit that serves only that particular customer.

10) Section 68.106 is amended to delete subparagraphs (d) and (e) and to amend the text as follows:

§68.106 Notification to provider of wireline telecommunications.

(a) *General.* Customers connecting terminal equipment or protective circuitry to the public switched telephone network shall, upon request of the provider of wireline telecommunications, inform the provider of wireline telecommunications of the particular line(s) to which such connection is made, and any other information required to be placed on the terminal equipment pursuant to § 68.354 of this part by the Administrative Council for Terminal Attachments.

(b) *Systems assembled of combinations of individually-approved terminal equipment and protective circuitry.* Customers connecting such assemblages to the public switched telephone network shall, upon the request of the provider of wireline telecommunications, provide to the provider of wireline telecommunications the following information:

For each line:

(i) Information required for compatible operation of the equipment with the communications facilities of the provider of wireline telecommunications;

- (ii) The identifying information required to be placed on terminal equipment pursuant to § 68.354 for all equipment dedicated to that line; and
 - (iii) Any other information regarding equipment dedicated to that line required to be placed on the terminal equipment by the Administrative Council for Terminal Attachments.
 - (iv) A list of identifying numbers required to be placed on terminal equipment, if any, by the Administrative Council for Terminal Attachments, pursuant to § 68.354 of this part, for equipment to be used in the system.
- (c) Systems *using other than "fully protected" premises wiring*. Customers who intend to connect premises wiring other than "fully protected" premises wiring to the public switched telephone network shall, in addition to the foregoing, give notice to the provider of wireline telecommunications in accordance with § 68.215(e).

11) Section 68.108 shall be amended as follows:

§68.108 Incidence of harm.

Should terminal equipment, inside wiring, plugs and jacks, or protective circuitry cause harm to the public switched telephone network, or should the provider of wireline telecommunications reasonably determine that such harm is imminent, the provider of wireline telecommunications shall, where practicable, notify the customer that temporary discontinuance of service may be required; however, wherever prior notice is not practicable, the provider of wireline telecommunications may temporarily discontinue service forthwith, if such action is reasonable under the circumstances. In case of such temporary discontinuance, the provider of wireline telecommunications shall:

* * * * *

12) Section 68.110 is amended as follows:

§68.110 Compatibility of the public switched telephone network and terminal equipment.

(a) *Availability of interface information*. Technical information concerning interface parameters not specified by the technical criteria published by the Administrative Council for Terminal Attachments, that are needed to permit terminal equipment to operate in a manner compatible with the communications facilities of a provider of wireline telecommunications, shall be provided by the provider of wireline telecommunications upon request.

(b) *Changes in the facilities, equipment, operations, or procedures of a provider of wireline telecommunications*. A provider of wireline telecommunications may make changes in its communications facilities, equipment, operations or procedures, where such action is reasonably required in the operation of its business and is not inconsistent with the rules and regulations in this part. If such changes can be reasonably expected to render any customer's terminal equipment incompatible with the communications facilities of the provider of wireline telecommunications, or require modification or alteration of such terminal equipment, or otherwise materially affect its use or performance, the customer shall be given adequate notice in writing, to allow the customer an opportunity to maintain uninterrupted service.

(c) *Availability of inside wiring information*. Any available technical information concerning wiring on the customer side of the demarcation point, including copies of existing schematic diagrams and service records, shall be provided by the provider of wireline telecommunications upon request of the building owner or agent thereof. The provider of wireline telecommunications may charge the building owner a reasonable fee for this service, which shall not exceed the cost involved in locating and copying the documents. In the alternative, the provider of wireline telecommunications may make these documents available for review and copying by the building owner. In this case, the provider of wireline telecommunications may charge a reasonable fee, which shall not exceed the cost involved in making the

documents available, and may also require the building owner to pay a deposit to guarantee the documents' return.

13) The title of Subpart C is amended as follows:

Subpart C—Terminal Equipment Approval Procedures

14) Section 68.200 is deleted and the number reserved.

15) A new Section 68.201 is added as follows:

§68.201 Connection to the public switched telephone network.

Terminal equipment may not be connected to the public switched telephone network unless it has either been certified by a Telecommunications Certification Body or the responsible party has followed all the procedures in this subpart for Supplier's Declaration of Conformity.

16) Section 68.202 is deleted and the number reserved.

17) Section 68.204 is deleted and the number reserved.

18) Section 68.206 is deleted and the number reserved.

19) Section 68.208 is deleted and the number reserved.

20) Section 68.210 is deleted and the number reserved.

21) Section 68.211 is amended as follows:

§68.211 Terminal equipment approval revocation procedures.

(a) *Causes for revocation.* The Commission may revoke the interconnection authorization of terminal equipment, whether that authorization was acquired through certification by a Telecommunications Certification Body or through the Supplier's Declaration of Conformity process in §§68.320-68.350 of this part, where:

(1) the equipment approval is shown to have been obtained by misrepresentation;

(2) the approved equipment is shown to cause harms to the public switched telephone network, as defined in §68.3.

(3) the responsible party willfully or repeatedly fails to comply with the terms and conditions of its equipment approval; or

(4) the responsible party willfully or repeatedly fails to comply with any rule, regulation or order issued by the Commission under the Communications Act of 1934 relating to terminal equipment.

(b) *Notice of Intent to Revoke Interconnection Authority.* Before revoking interconnection authority under the provisions of this section, the Commission, or the Common Carrier Bureau under delegated authority, will issue a written Notice of Intent to Revoke Part 68 Interconnection Authority, or a Joint Notice of Apparent Liability for Forfeiture and Notice of Intent to Revoke Part 68 Interconnection Authority pursuant to §§1.80 and 1.89 of this chapter.

(c) *Delivery.* The Notice will be sent via certified mail to the responsible party for the terminal equipment at issue at the address provided to the Administrative Council for Terminal Attachments.

(d) *Reauthorization.* A product that has had its approval revoked may not be authorized for connection to the public switched telephone network for a period of six months from the date of revocation of the

approval.

(e) *Reconsideration or appeal.* A responsible party of terminal equipment that has had its authorization revoked and/or that has been assessed a forfeiture may request reconsideration or make administrative appeal of the decision pursuant to Part 1 of the Commission's rules: Practice and Procedure, Part 1 of this chapter.

22) Section 68.212 is deleted and the number reserved.

23) Section 68.213(b) is amended as follows:

§68.213 Installation of other than "fully protected" non-system simple customer premises wiring.

(a) * * * * *

(b) *Wiring authorized.* Unprotected premises wiring may be used to connect units of terminal equipment or protective circuitry to one another, and to carrier-installed facilities if installed in accordance with these rules. The provider of wireline telecommunications is not responsible, except pursuant to agreement between it and the customer or undertakings by it, otherwise consistent with Commission requirements, for installation and maintenance of wiring on the subscriber's side of the demarcation point, including any wire or jacks that may have been installed by the carrier. The subscriber and/or premises owner may install wiring on the subscriber's side of the demarcation point, and may remove, reconfigure, and rearrange wiring on that side of the demarcation point including wiring and wiring that may have been installed by the carrier. The customer or premises owner may not access carrier wiring and facilities on the carrier's side of the demarcation point. Customers may not access the protector installed by the provider of wireline telecommunications. All plugs and jacks used in connection with inside wiring shall conform to the published technical criteria of the Administrative Council for Terminal Attachments. In multiunit premises with more than one customer, the premises owner may adopt a policy restricting a customer's access to wiring on the premises to only that wiring located in the customer's individual unit wiring that serves only that particular customer. See §68.105 in this part. The customer or premises owner may not access carrier wiring and facilities on the carrier's side of the demarcation point. Customers may not access the protector installed by the provider of wireline telecommunications. All plugs and jacks used in connection with inside wiring shall conform to the published technical criteria of the Administrative Council for Terminal Attachments.

* * * * *

24) Section 68.214 is amended as follows:

§68.214 Changes in other than "fully protected" premises wiring that serves fewer than four subscriber access lines.

Operations associated with the installation, connection, reconfiguration and removal (other than final removal) of premises wiring that serves fewer than four subscriber access lines must be performed as provided in § 68.215(c) if the premises wiring is not "fully protected." For this purpose, the supervisor and installer may be the same person.

25) Section 68.215 is amended to delete the Note after paragraph (d)(2) and to amend the text of paragraphs (a)(2)-(3), (d)(5), (e), (f)(4), and (g)(1)-(5) as follows:

§68.215 Installation of other than "fully protected" system premises wiring that serves more than four subscriber access lines.

(a) *Types of wiring authorized.*

(1) * * * * *

(2) *Between an equipment entity and the public switched telephone network interface(s).* Fully-protected premises wiring shall be used to connect equipment entities to the public switched telephone network interface unless the provider of wireline telecommunications is unwilling or unable to locate the interface within 7.6 meters (25 feet) of the equipment entity on reasonable request. In any such case, other than fully-protected premises wiring may be used if otherwise in accordance with these rules.

(3) *Hardware protection as part of the facilities of the provider of wireline telecommunications.* In any case where the carrier chooses to provide (and the customer chooses to accept, except as authorized under paragraph (g) of this section), hardware protection on the network side of the interface(s), the presence of such hardware protection will affect the classification of premises wiring for the purposes of §68.215, as appropriate.

* * * * *

(d) *Workmanship and material requirements*

(1) * * * * *

(5) *Limitations on electrical signals.* Only signal sources that emanate from the provider of wireline telecommunications central office, or that are generated in equipment at the customer's premises and are "non-hazardous voltage sources" as defined in the technical criteria published by the Administrative Council for Terminal Attachments, may be routed in premises telephone wiring, except for voltages for network control signaling and supervision that are consistent with standards employed by the provider of wireline telecommunications. Current on individual wiring conductors shall be limited to values that do not cause an excessive temperature rise, with due regard to insulation materials and ambient temperatures. The following table assumes a 45° C temperature rise for wire sizes 22 AWG or larger, and a 40° C rise for wire sizes smaller than 22 AWG, for poly-vinyl chloride insulating materials, and should be regarded as establishing *maximum* values to be de-rated accordingly in specific installations where ambient temperatures are in excess of 25° C:

* * * * *

(e) *Documentation requirements.*

* * * * *

(1) * * * * *

(9) The supervisor's signature.

The notarized original shall be submitted to the provider of wireline telecommunications at least ten calendar days in advance of the placement and connection of the wiring. This time period may be changed by agreement of the provider of wireline telecommunications and the supervisor. The copy shall be maintained at the premises, available for inspection, so long as the wiring is used for telephone service.

(f) * * * * *

(1) * * * * *

(4) *Monitoring or participation in acceptance testing by the provider of wireline telecommunications.* The provider of wireline telecommunications may monitor or participate in the acceptance testing required under this section, in accordance with §68.215(g) of this part, from its central office test desk or otherwise.

(g) *Extraordinary procedures.* The provider of wireline telecommunications is hereby authorized to limit the subscriber's right of connecting approved terminal equipment or protective circuitry with other than fully-protected premises wiring, but solely in accordance with this subsection and §68.108 of these rules.

(1) *Conditions that may invoke these procedures.* The extraordinary procedures authorized herein may only be invoked where one or more of the following conditions is present:

(i) Information provided in the supervisor's affidavit gives reason to believe that a

violation of part 68 of the FCC's rules is likely.

(ii) A failure has occurred during acceptance testing for imbalance.

(iii) Harm has occurred, and there is reason to believe that this harm was a result of wiring operations performed under this section.

The extraordinary procedures authorized in the following sub-sections shall not be used so as to discriminate between installations by provider of wireline telecommunications personnel and installations by others. In general, this requires that any charges for these procedures be levied in accordance with, or analogous to, the "maintenance of service" tariff provisions: If the installation proves satisfactory, no charge should be levied.

(2) *Monitoring or participation in acceptance testing for imbalance.* Notwithstanding the previous sub-section, the provider of wireline telecommunications may monitor or participate in acceptance testing for imbalance at the time of the initial installation of wiring in the absence of the conditions listed therein; at any other time, on or more of the listed conditions shall be present. Such monitoring or participation in acceptance testing should be performed from the central office test desk where possible to minimize costs.

(3) *Inspection.* Subject to paragraph (g)(1) of this section, the provider of wireline telecommunications may inspect wiring installed pursuant to this section, and all of the splicing and connection points required to be accessible by §68.215(d)(3) to determine compliance with this section. The user or installation supervisor shall either authorize the provider of wireline telecommunications to render the splicing and inspection points visible (e.g., by removing covers), or perform this action prior to the inspection. To minimize disruption of the premises communications system, the right of inspecting is limited as follows:

(i) During initial installation of wiring:

The provider of wireline telecommunications may require withdrawal of up to 5 percent (measured linearly) of wiring run concealed in ducts, conduit or wall spaces, to determine conformance of the wiring to the information furnished in the affidavit.

In the course of any such inspection, the provider of wireline telecommunications shall have the right to inspect documentation required to be maintained at the premises under §68.215(e).

(ii) After failure of acceptance testing or after harm has resulted from installed wiring:

The provider of wireline telecommunications may require withdrawal of all wiring run concealed in ducts, conduit or wall spaces which reasonably could have caused the failure or harm, to determine conformance of the wiring to the information furnished in the affidavit.

In the course of any such inspection, the provider of wireline telecommunications shall have the right to inspect documentation required to be maintained at the premises under §68.215(e).

(4) *Requiring the use of protective apparatus.* In the event that any of the conditions listed in paragraph (g)(1) of this section, arises, and is not permanently remedied within a reasonable time period, the provider of wireline telecommunications may require the use of protective apparatus that either protects solely against hazardous voltages, or that protects both against hazardous voltages and imbalance. Such apparatus may be furnished either by the provider of wireline telecommunications or by the customer. This right is in addition to the rights of the provider of wireline telecommunications under § 68.108.

(5) *Notice of the right to bring a complaint.* In any case where the provider of wireline telecommunications invokes the extraordinary procedures of § 68.215(g), it shall afford the customer the opportunity to correct the situation that gave rise to invoking these procedures, and inform the customer of the right to bring a complaint to the Commission pursuant to the procedures set forth in subpart E of this part. On complaint, the Commission reserves the right

to perform any of the inspections authorized under this section, and to require the performance of acceptance tests.

* * * * *

26) Section 68.216 is deleted and the number reserved.

27) Section 68.218 is amended to delete subparagraphs (b)(4) and (d) and to read as follows.

§68.218 Responsibility of the party acquiring equipment authorization.

(a) In acquiring approval for terminal equipment to be connected to the public switched telephone network, the responsible party warrants that each unit of equipment marketed under such authorization will comply with all applicable rules and regulations of this part and with the applicable technical criteria of the Administrative Council for Terminal Attachments.

(b) The responsible party or its agent shall provide the user of the approved terminal equipment the following:

(1) Consumer instructions required to be included with approved terminal equipment by the Administrative Council for Terminal Attachments;

(2) For a telephone that is not hearing aid-compatible, as defined in §68.316 of these rules:

(i) notice that FCC rules prohibit the use of that handset in certain locations; and

(ii) a list of such locations (see §68.112).

(c) When approval is revoked for any item of equipment, the responsible party must take all reasonable steps to ensure that purchasers and users of such equipment are notified to discontinue use of such equipment.

28) Section 68.220 is deleted and the number reserved.

29) Section 68.226 is deleted and the number reserved.

30) Amend the title for Subpart D as follows:

Subpart D—Conditions for Terminal Equipment Approval

31) Section 68.300 is amended to amend paragraph (a), delete paragraph (b), and to redesignate paragraph (c) to paragraph (b) as follows:

§68.300 Approval of terminal equipment for connection to the public switched telephone network.

(a) Terminal equipment approved as set out in this part must be labeled in accordance with the requirements published by the Administrative Council for Terminal Attachments and with requirements of this part for hearing aid compatibility and volume control.

(b) * * * * *

32) Section 68.302 is deleted and the number reserved.

33) Section 68.304 is deleted and the number reserved.

34) Section 68.306 is deleted and the number reserved.

35) Section 68.308 is deleted and the number reserved.

36) Section 68.310 is deleted and the number reserved.

37) Section 68.312 is deleted and the number reserved.

38) Section 68.314 is deleted and the number reserved.

39) A new Section 68.320 is added as follows:

§68.320 Supplier's Declaration of Conformity.

(a) Supplier's Declaration of Conformity is a procedure where the responsible party, as defined in §68.3, makes measurements or takes other necessary steps to ensure that the terminal equipment complies with the appropriate technical standards.

(b) The Supplier's Declaration of Conformity attaches to all items subsequently marketed by the responsible party which are identical, within the variation that can be expected to arise as a result of quantity production techniques, to the sample tested and found acceptable by the responsible party.

(c) The Supplier's Declaration of Conformity signifies that the responsible party has determined that the equipment has been shown to comply with the applicable technical criteria if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated.

(d) The responsible party, if different from the manufacturer, may upon receiving a written statement from the manufacturer that the equipment complies with the appropriate technical criteria, rely on the manufacturer or independent testing agency to determine compliance. Any records that the Administrative Council for Terminal Attachments requires the responsible party to maintain shall be in the English language and shall be made available to the Commission upon a request.

(e) No person shall use or make reference to a Supplier's Declaration of Conformity in a deceptive or misleading manner or to convey the impression that such a Supplier's Declaration of Conformity reflects more than a determination by the responsible party that the device or product has been shown to be capable of complying with the applicable technical criteria published by the Administrative Council of Terminal Attachments.

40) A new section 68.321 is added as follows:

§68.321 Location of responsible party.

The responsible party for a Supplier's Declaration of Conformity must be located within the United States.

41) A new section 68.322 is added as follows:

§68.322 Changes in name, address, ownership or control of responsible party.

(a) The responsible party for a Supplier's Declaration of Conformity may license or otherwise authorize a second party to manufacture the equipment covered by the Supplier's Declaration of Conformity provided that the responsible party shall continue to be responsible to the Commission for ensuring that the equipment produced pursuant to such an agreement remains compliant with the appropriate standards.

(b) In the case of transactions affecting the responsible party of a Supplier's Declaration of Conformity, such as a transfer of control or sale to another company, mergers, or transfer of manufacturing rights, the successor entity shall become the responsible party.

42) A new section 68.324 is added as follows:

§68.324 Supplier's Declaration of Conformity requirements.

(a) Each responsible party shall include in the Supplier's Declaration of Conformity, the following information:

- (1) the identification and a description of the responsible party for the Supplier's Declaration of Conformity and the product, including the model number of the product,
- (2) a statement that the terminal equipment conforms with applicable technical requirements, and a reference to the technical requirements,
- (3) the date and place of issue of the declaration,
- (4) the signature, name and function of person making declaration,
- (5) a statement that the handset, if any, complies with §68.316 of these rules (defining hearing aid compatibility), or that it does not comply with that section. A telephone handset which complies with §68.316 shall be deemed a "hearing aid-compatible telephone" for purposes of §68.4.
- (6) any other information required to be included in the Supplier's Declaration of Conformity by the Administrative Council for Terminal Attachments.

(b) If the device that is subject to a Supplier's Declaration of Conformity is designed to operate in conjunction with other equipment, the characteristics of which can affect compliance of such device with Part 68 rules and/or with technical criteria published by the Administrative Council for Terminal Attachments, then the Model Number(s) of such other equipment must be supplied, and such other equipment must also include a Supplier's Declaration of Conformity or a certification from a Telecommunications Certification Body.

(c) The Supplier's Declaration of Conformity shall be included in the user's manual or as a separate document enclosed with the terminal equipment.

(d) If terminal equipment is not subject to a Supplier's Declaration of Conformity, but instead contains protective circuitry that is subject to a Supplier's Declaration of Conformity, then the responsible party for the protective circuitry shall include with each module of such circuitry, a Supplier's Declaration of Conformity containing the information required under §68.340(a), and the responsible party of such terminal equipment shall include such statement with each unit of the product.

(e) (1) The responsible party for the terminal equipment subject to a Supplier's Declaration of Conformity also shall provide to the purchaser of such terminal equipment, instructions as required by the Administrative Council for Terminal Attachments.

(2) A copy of the Supplier's Declaration of Conformity shall be provided to the Administrative Council for Terminal Attachments along with any other information the Administrative Council for Terminal Attachments requires; this information shall be made available to the public.

(3) The responsible party shall make a copy of the Supplier's Declaration of Conformity freely available to the general public on its company website. The information shall be accessible to the disabled community from the website. If the responsible party does not have a functional and reliable website, then the responsible party shall inform the Administrative Council for Terminal Attachments of such circumstances, and the Administrative Council for Terminal Attachments shall make a copy available on its website.

(f) For a telephone that is not hearing aid-compatible, as defined in §68.316 of this part, the responsible party also shall provide the following in the Supplier's Declaration of Conformity:

- (1) notice that FCC rules prohibit the use of that handset in certain locations; and
- (2) a list of such locations (see §68.112).

43) A new section 68.326 is added as follows:

§68.326 Retention of records.

(a) The responsible party for a Supplier's Declaration of Conformity shall maintain records containing the following information:

- (1) A copy of the Supplier's Declaration of Conformity;
- (2) The identity of the testing facility, including the name, address, phone number and other contact information.
- (3) A detailed explanation of the testing procedure utilized to determine whether terminal equipment conforms to the appropriate technical criteria.
- (4) A copy of the test results for terminal equipment compliance with the appropriate technical criteria.

(b) For each device subject to the Supplier's Declaration of Conformity requirement, the responsible party shall maintain all records required under section 68.326(a) for at least ten years after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding, if the responsible party is officially notified prior to the expiration of such ten year period that an investigation or any other administrative proceeding involving its equipment has been instituted, whichever is later.

44) A new section 68.346 is added as follows:

§68.346 Description of testing facilities.

(a) Each responsible party for equipment that is subject to a Supplier's Declaration of Conformity under this subchapter, shall compile a description of the measurement facilities employed for testing the equipment. The responsible party for the Supplier's Declaration of Conformity shall retain a description of the measurement facilities.

(b) The description shall contain the information required to be included by the Administrative Council for Terminal Attachments.

45) A new section 68.348 is added as follows:

§68.348 Changes in equipment and circuitry subject to a Supplier's Declaration of Conformity.

(a) No change shall be made in terminal equipment or protective circuitry that would result in any material change in the information contained in the Supplier's Declaration of Conformity Statement furnished to users.

(b) Any other changes in terminal equipment or protective circuitry which is subject to an effective Supplier's Declaration of Conformity shall be made only by the responsible party or an authorized agent thereof, and the responsible party will remain responsible for the performance of such changes.

46) A new section 68.350 is added as follows:

§68.350 Revocation of Supplier's Declaration of Conformity.

(a) The Commission may revoke any Supplier's Declaration of Conformity for cause in accordance with the provisions of this section or in the event changes in technical standards published by the Administrative Council for Terminal Attachments require the revocation of any outstanding Supplier's Declaration of Conformity in order to achieve the objectives of Part 68.

(b) Cause for revocation. In addition to the provisions in §68.211, the Commission may revoke a Supplier's Declaration of Conformity:

- (1) For false statements or representations made in materials or responses submitted to the

Commission and/or the Administrative Council for Terminal Attachments, or in records required to be kept by §68.324 and the Administrative Council for Terminal Attachments.

(2) If upon subsequent inspection or operation it is determined that the equipment does not conform to the pertinent technical requirements.

(3) If it is determined that changes have been made in the equipment other than those authorized by this part or otherwise expressly authorized by the Commission.

47) A new section 68.354 is added as follows:

§68.354 Numbering and labeling requirements for terminal equipment.

(a) Terminal equipment and protective circuitry that is subject to a Supplier's Declaration of Conformity or that is certified by a Telecommunications Certification Body shall have labels in a place and manner required by the Administrative Council for Terminal Attachments.

(b) Terminal equipment labels shall include an identification numbering system in a manner required by the Administrative Council for Terminal Attachments.

(c) If the Administrative Council for Terminal Attachments chooses to continue the practice of utilizing a designated "FCC" number, it shall include in its labeling requirements a warning that the Commission no longer directly approves or registers terminal equipment.

(d) Labeling developed for terminal equipment by the Administrative Council for Terminal Attachments shall contain sufficient information for providers of wireline telecommunications, the Federal Communications Commission, and the U.S. Customs Service to carry out their functions, and for consumers to easily identify the responsible party and the manufacturer of their terminal equipment. The numbering and labeling scheme shall be nondiscriminatory, creating no competitive advantage for any entity or segment of the industry.

(e) FCC numbering and labeling requirements existing prior to the effective date of these rules shall remain unchanged until the Administrative Council for Terminal Attachments publishes its numbering and labeling requirements.

48) A new section 68.415 is added as follows:

§ 68.415 Hearing aid-compatibility and volume control informal complaints.

Persons with complaints under 68.4 and 68.112 that are not addressed by the states pursuant to section 68.414, and all other complaints regarding rules in this part pertaining to hearing aid compatibility and volume control, may bring informal complaints as described in 68.416 through 68.420 of this subpart. All responsible parties of terminal equipment are subject to the informal complaint provisions specified in this section.

49) A new section 68.417 is added as follows:

§68.417 Informal complaints; form and content.

(a) An informal complaint alleging a violation of hearing aid compatibility and/or volume control rules in this subpart may be transmitted to the Consumer Information Bureau by any reasonable means, e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, and Braille.

(b) An informal complaint shall include:

(1) The name and address of the complainant;

(2) The name and address of the responsible party, if known, or the manufacturer or provider against whom the complaint is made;

(3) A full description of the terminal equipment about which the complaint is made;

- (4) The date or dates on which the complainant purchased, acquired or used the terminal equipment about which the complaint is being made;
- (5) A complete statement of the facts, including documentation where available, supporting the complainant's allegation that the defendant has failed to comply with the requirements of this subpart;
- (6) The specific relief or satisfaction sought by the complainant, and
- (7) The complainant's preferred format or method of response to the complaint by the Commission and defendant (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, Braille; or some other method that will best accommodate the complainant's disability).

50) A new section 68.418 is added as follows:

§68.418 Procedure; designation of agents for service.

- (a) The Commission shall promptly forward any informal complaint meeting the requirements of subsection 68.17 of this subpart to each responsible party named in or determined by the staff to be implicated by the complaint. Such responsible party or parties shall be called on to satisfy or answer the complaint within the time specified by the Commission.
- (b) To ensure prompt and effective service of informal complaints filed under this subpart, every responsible party of equipment approved pursuant to this part shall designate and identify one or more agents upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. Such designation shall be provided to the Administrative Council for Terminal Attachment and shall include a name or department designation, business address, telephone number, and, if available TTY number, facsimile number, and Internet e-mail address. The Administrative Council shall make this information promptly available without charge to complainants upon request.

51) A new section 68.419 is added as follows:

§68.419 Answers to informal complaints.

Any responsible party to whom the Commission or the Consumer Information Bureau under this subpart directs an informal complaint shall file an answer within the time specified by the Commission or the Consumer Information Bureau. The answer shall:

- (a) be prepared or formatted in the manner requested by the complainant pursuant to section 68.417 of this subpart, unless otherwise permitted by the Commission or the Consumer Information Bureau for good cause shown;
- (b) describe any actions that the defendant has taken or proposes to take to satisfy the complaint;
- (c) advise the complainant and the Commission or the Consumer Information Bureau of the nature of the defense(s) claimed by the defendant;
- (d) respond specifically to all material allegations of the complaint; and
- (e) provide any other information or materials specified by the Commission or the Consumer Information Bureau as relevant to its consideration of the complaint.

52) A new section 68.420 is added as follows:

§68.420 Review and disposition of informal complaints.

- (a) Where it appears from the defendant's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission or the Consumer Information Bureau on delegated authority may, in its discretion, consider the informal complaint closed, without response to

the complainant or defendant. In all other cases, the Commission or the Consumer Information Bureau shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information (the nature of which is specified in subsections (b) - (d) of this section, shall be transmitted to the complainant and defendant in the manner requested by the complainant, (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, or Braille).

(b) In the event the Commission or the Consumer Information Bureau determines, based on a review of the information provided in the informal complaint and the defendant's answer thereto, that no further action is required by the Commission or the Consumer Information Bureau with respect to the allegations contained in the informal complaint, the informal complaint shall be closed and the complainant and defendant shall be duly informed of the reasons therefor. A complainant, unsatisfied with the defendant's response to the informal complaint and the staff decision to terminate action on the informal complaint, may file a complaint with the Commission or the Common Carrier Bureau as specified in sections 68.400 through 68.412 of this part.

(c) In the event the Commission or the Consumer Information Bureau on delegated authority determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that a material and substantial question remains as to the defendant's compliance with the requirements of this subpart, the Commission or the Consumer Information Bureau may conduct such further investigation or such further proceedings as may be necessary to determine the defendant's compliance with the requirements of this subpart and to determine what, if any, remedial actions and/or sanctions are warranted.

(d) In the event that the Commission or the Consumer Information Bureau on delegated authority determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that the defendant has failed to comply with or is presently not in compliance with the requirements of this subpart, the Commission or the Consumer Information Bureau on delegated authority may order or prescribe such remedial actions and/or sanctions as are authorized under the Act and the Commission's rules and which are deemed by the Commission or the Consumer Information Bureau on delegated authority to be appropriate under the facts and circumstances of the case.

53) A new section 68.423 is added as follows:

§68.423 Actions by the Commission on its own motion.

The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this subpart. The procedures to be followed by the Commission shall, unless specifically prescribed in the Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

54) Subpart F is deleted and the designation reserved.

55) Section 68.500 is deleted and the number reserved.

56) Section 68.502 is deleted and the number reserved.

57) Section 68.504 is deleted and the number reserved.

58) Section 68.506 is deleted and the number reserved.

59) A new subpart to contain rule numbers in the range of 68.600 – 68.699 is added as follows:

Subpart G – ADMINISTRATIVE COUNCIL FOR TERMINAL ATTACHMENTS

60) A new section 68.602 is added as follows:

§68.602 Sponsor of the Administrative Council for Terminal Attachment.

(a) The Telecommunications Industry Association (TIA) and the Alliance for Telecommunications Industry Solutions (ATIS) jointly shall establish the Administrative Council for Terminal Attachment and shall sponsor the Administrative Council for Terminal Attachments for four years from the effective date of these rules. The division of duties by which this responsibility is executed may be a matter of agreement between these two parties; however, both are jointly and severally responsible for observing these rule provisions. After four years from the effective date of these rules, and thereafter on a quadrennial basis, the Administrative Council for Terminal Attachments may vote by simple majority to be sponsored by any ANSI-accredited organization.

(b) The sponsoring organizations shall ensure that the Administrative Council for Terminal Attachments is populated in a manner consistent with the criteria of American National Standards Institute's Organization Method or the Standards Committee Method (and their successor Method or Methods as ANSI may from time to time establish) for a balanced and open membership.

(c) After the Administrative Council for Terminal Attachments is populated, the sponsors are responsible for fulfilling secretariat functions as determined by the Administrative Council for Terminal Attachments. The Administrative Council for Terminal Attachments shall post on a publicly available website and make available to the public in hard copy form the contract into which it enters with the sponsor or sponsors.

61) A new section 68.604 is added as follows:

§68.604 Requirements for submitting technical criteria.

(a) Any standards development organization that is accredited under the American National Standards Institute's Organization Method or the Standards Committee Method (and their successor Method or Methods as ANSI may from time to time establish) may establish technical criteria for terminal equipment pursuant to ANSI consensus decision-making procedures, and it may submit such criteria to the Administrative Council for Terminal Attachments.

(b) Any ANSI-accredited SDO that develops standards for submission to the Administrative Council for Terminal Attachments must implement and use procedures for the development of those standards that ensure openness equivalent to the Commission rulemaking process.

(c) Any SDO that submits standards to the Administrative Council for Terminal Attachments for publication as technical criteria shall certify to the Administrative Council for Terminal Attachments that:

- (1) The submitting SDO is ANSI-accredited to the Standards Committee Method or the Organization Method (or their successor Methods as amended from time to time by ANSI);
- (2) The technical criteria that it proposes for publication do not conflict with any published technical criteria or with any technical criteria submitted and pending for publication, and
- (3) The technical criteria that it proposes for publication are limited to preventing harms to the public switched telephone network, identified in §68.3 of this part.

62) A new Section 68.608 is added as follows:

§68.608 Publication of technical criteria.

The Administrative Council for Terminal Attachments shall place technical criteria proposed for publication on public notice for 30 days. At the end of the 30 day public notice period, if there are no oppositions, the Administrative Council for Terminal Attachments shall publish the technical criteria.

63) A new Section 68.610 is added as follows:

§68.610 Database of terminal equipment.

(a) The Administrative Council for Terminal Attachments shall operate and maintain a database of all approved terminal equipment. The database shall meet the requirements of the Federal Communications Commission and the U.S. Customs Service for enforcement purposes. The database shall be accessible by government agencies free of charge. Information in the database shall be readily available and accessible to the public, including individuals with disabilities, at nominal or no costs.

(b) Responsible parties, whether they obtain their approval from a Telecommunications Certification Body or utilized the Supplier's Declaration of Conformity process, shall submit to the database administrator all information required by the Administrative Council for Terminal Attachments.

(c) The Administrative Council for Terminal Attachments shall ensure that the database is created and maintained in an equitable and nondiscriminatory manner. The manner in which the database is created and maintained shall not permit any entity or segment of the industry to gain a competitive advantage.

(d) The Administrative Council shall file with the Commission, within 180 days of publication of these rules in the Federal Register, a detailed report of the structure of the database, including details of how the Administrative Council will administer the database, the pertinent information to be included in the database, procedures for including compliance information in the database, and details regarding how the government and the public will access the information.

64) A new Section 68.612 is added as follows:

§68.612 Labels on terminal equipment.

Terminal equipment certified by a Telecommunications Certification Body or approved by the Supplier's Declaration of Conformity under this part shall be labeled. The Administrative Council for Terminal Attachments shall establish appropriate labeling of terminal equipment. Labeling shall meet the requirements of the Federal Communications Commission and the U.S. Customs Service for their respective enforcement purposes, and of consumers for purposes of identifying the responsible party, manufacturer and model number.

65) A new Section 68.614 is added as follows:

§68.614 Oppositions and appeals.

(a) Oppositions filed in response to the Administrative Council for Terminal Attachments' public notice of technical criteria proposed for publication must be received by the Administrative Council for Terminal Attachments within 30 days of public notice to be considered. Oppositions to proposed technical criteria shall be addressed through the appeals procedures of the authoring standards development organization and of the American National Standards Institute. If these procedures have been exhausted, the aggrieved party shall file its opposition with the Commission for *de novo* review.

(b) As an alternative, oppositions to proposed technical criteria may be filed directly with the Commission for *de novo* review within the 30 day public notice period.

Part 15 of Title 47 of the Code of Federal Regulations is amended as follows:

- 1) Amend Section 15.214(b) to read:

§15.214 Cordless telephones.

(a) * * * * *

(b) A cordless telephone that is intended to be connected to the public switched telephone network shall also comply with the applicable regulations in Part 68 of this chapter. A separate procedure for approval under Part 68 is required for such terminal equipment.

* * * * *

Part 2 of Title 47 of the Code of Federal Regulations is amended as follows:

- 1) Part 2 is amended by deleting Subpart L, including sections 2.1300 and 2.1302, and reserving the letter designation.

Appendix C: List of Parties**Comments**

ACIL
Alliance for Telecommunications Industry Solutions
Bell Atlantic
BellSouth Corporation
Communications Certification Laboratory, Inc.
GTE
Hewlett-Packard Company
Information Technology Industry Council
Itronix Corporation
KTL Dallas, Inc.
Lucent Technologies Inc.
Nortel Networks Inc.
Phonex Broadband Corp.
Redcom Laboratories, Inc.
SBC Communications Inc.
Self Help for Hard of Hearing People, Inc.
Sprint Corporation
Telecommunications Industry Association
United States Telecom Association

Reply Comments

Alliance for Telecommunications Industry Solutions
BellSouth Corporation
Hewlett-Packard Company
SBC Communications Inc.
Self Help for Hard of Hearing People, Inc.
Telecommunications Industry Association
Verizon